IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY NINETH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 8641 of 2001

Between:

1 K.Narsamma D/o adavaiah
R/o.Malaparthi (v) (m) Medak dist.
2 K.Kalavathi D/o Satyanarayana
R/o Malaparthi (v) Narspur (m) Medak dist.

..... PETITIONERS

AND

1 The Govt.of A.P. rep by its secretary
Revenue Dept , Secretariat , Hyderabad.
2 The Mandal Revenue Officer
Narsapur Mandal, Medak dist.

.....RESPONDETS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ or writs, order or direction, declaring the action of the 2nd respondent in seeking to dispossess the petitioners and auction mango trees lying thereon in land admeasuring 10Acres in S.No.29/A Malaparthi (V) Narsapur (m) Medak Dist as illegal, arbitrary and without jurisdiction and violative of Articles 14 and 300-A of the Constitution of India , award costs and pass such other order.

Counsel for the Petitioner: MR.B.VIJAYSEN REDDY -ADVOCATE

Counsel for the Respondent No.: GP FOR REVENUE

The Court Made the Following :

ORDER:

The present writ petition is filed questioning the action of the second respondent in seeking to dispossess the petitioners and to auction the mango trees lying thereon in land admeasuring
Ac.10-00 in S.No.29/9, 29/10 and 29/11, Malaparthi village, Narsapur Mandal, Medak District.

This Court while admitting the writ petition granted interim stay pursuant to the auction notice dated 20-4-2001. Pursuant thereof, the present writ petition was filed by the Government.

Heard learned counsel for petitioner and learned Government Pleader for Revenue. Both argued for disposal of the main writ petition.

In the counter affidavit filed on behalf of the respondents stated that the petitioner has purchased the Government lands assigned to landless poor in 1959 under unregistered sale deed dated 16-5-1975. It is also stated that the first petitioner is not a poor person and is an Government employee and that the second petitioner is her daughter and they are not protected under section 3 (5) of the A.P. Assigned Lands (Prohibition of Transfer) Act, 1977. It is further stated that after following the due procedure, the lands were resumed in favour of the Government under section 4(1) (a) of the Act vide proceedings No.C/3641/98, dated 20-11-1999. That the writ petitioners had applied for validation of transfers under section 5 (A) of the A.P. Record of Rights in Land and Pattadar Pass Books Act, 1971 and the second respondent vide proceedings dated 20-10-1992 validated the same and issued certificates in form XIII-B. Since the said validation under section 5(A) is irregular, the Joint Collector in exercise of *suo moto* revisional power under Rules 23 (2) of A.P. Rights in Land and Pattadar Pass Books Act, 1989 cancelled the certificates issued in form XIII-B vide proceedings dated 9-5-2000. Basing on the said order, the second respondent vide order dated 17-5-2000 ordered for making necessary entries in the revenue records.

In view of the factual background, the petitioners cannot contend that they are

still in possession of the property, which was resumed. Once the properties are resumed and the lands vested on the Government, it is open for the Government to auction the leasehold rights of the fruit bearing trees.

It is to be noted that if the petitioners are aggrieved by the resumption of the land, the remedy open for them is to file an appeal questioning the resumption order dated 20.11.1999. In the absence of the same, this Court cannot go into the validity or otherwise of the resumption order, which has become final.

In view of the same, there is no infirmity in issuing the auction notice by the respondents. There are no merits in the writ petition, accordingly the same is dismissed. No costs.

29-06-2004

klp

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

To

1 The Secretary, Govt.of A.P.
Revenue Dept , Secretariat , Hyderabad.
2 The Mandal Revenue Officer
Narsapur Mandal Medak dist.